

Honorable Jamal N. Whitehead

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NICOLE PICHE and AARON PICHE, adult
individuals,

Plaintiffs,

vs.

SAFECO INSURANCE COMPANY OF
AMERICA, an insurance company doing
business in Washington,

Defendant.

No. 2:23-cv-01188-JNW

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. “CONFIDENTIAL” MATERIAL

“Confidential” material shall include the following documents and tangible things produced or otherwise exchanged:

It is anticipated that Safeco may designate the following information as confidential:

1. Defendant’s internal policies and practices;
2. Information relating to Defendant’s underwriting procedures, including pricing and rating;
3. Claims handling guidelines and related training material;
4. Reserving guidelines;
5. Reserve and/or reinsurance information;
6. Other insureds’ claims files or underwriting files; and

The listing of specific types of documents is not an admission that such are relevant to this case, that such are otherwise subject to discovery or admissible in evidence, or that such are actually confidential. Such listing simply indicates that if such production is required, it will be done pursuant to the terms of this Protective Order.

There may be other categories of documents, and this list may be expanded or narrowed as discovery progresses by Court order or agreement of the parties.

3. SCOPE

This Order governs the handling of all documents, testimony, and all other information, including copies, excerpts, quotations, and summaries thereof (collectively Material) produced by the parties in this action. Certain information to be produced in this case involves documents that a party believes contain proprietary information and/or trade secrets.

1 The protections conferred by this agreement cover not only confidential material (as
2 defined above), but also (1) any information copied or extracted from confidential material; (2) all
3 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
4 conversations, or presentations by parties or their counsel that might reveal confidential material.

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6 However, the protections conferred by this agreement do not cover information that is in
7 the public domain or becomes part of the public domain through trial or otherwise. Interrogatory
8 answers, responses to requests for production, responses to requests for admission, deposition
9 transcripts or exhibits, pleadings, motions, affidavits, briefs and summaries of confidential
10 information or documents that quote, summarize, or contain materials entitled to protection may
11 be accorded status as stamped confidential documents, but to the extent feasible, shall be prepared
12 in such a manner that the confidential information is bound separately from that not entitled to
13 protection. “Confidential Material” shall mean all such “Material” designated by any party as
14 “Confidential – Subject to Protective Order.”
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17 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

18 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
19 or produced by another party or by a non-party in connection with this case only for prosecuting,
20 defending, or attempting to settle this litigation. Confidential Material shall not be used for any
21 business or any other purpose whatsoever, and shall not be given, shown, made available, or
22 communicated in any way to anyone except those specified in this agreement, below in
23 subparagraph 4.2. Confidential material may be disclosed only to the categories of persons and
24 under the conditions described in this agreement. Confidential material must be stored and
25 maintained by a receiving party at a location and in a secure manner that ensures that access is
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1 limited to the persons authorized under this agreement.

2 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
3 by the court or permitted in writing by the designating party, a receiving party may disclose any
4 confidential material only to:

5 (a) the receiving party’s counsel of record in this action, as well as employees
6 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

7 (b) the officers, directors, and employees (including in house counsel) of the
8 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
9 agree that a particular document or material produced is for Attorney’s Eyes Only and is so
10 designated;

11 (c) former partners, employees, officers, or agents of the parties who counsel,
12 in good faith, requires to provide assistance in the conduct of this lawsuit and who have signed the
13 “Acknowledgement and Agreement to Be Bound” (Exhibit A);

14 (d) experts and consultants to whom disclosure is reasonably necessary for this
15 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (e) the court, court personnel, and court reporters and their staff;

17 (f) copy or imaging services retained by counsel to assist in the duplication of
18 confidential material, provided that counsel for the party retaining the copy or imaging service
19 instructs the service not to disclose any confidential material to third parties and to immediately
20 return all originals and copies of any confidential material;

21 (g) during their depositions, witnesses in the action to whom disclosure is
22 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
23 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court, provided,
24 however, that a party may use Confidential Material at a deposition or court proceeding of a
25 deponent or witness who has not already signed the certification in the form of Exhibit A hereto,

1 in which case, the Party's obligation shall be to ask that the deponent or witness sign the
2 certification, but the Party's right to proceed with the deposition or court proceeding shall not
3 depend on the deponent's or witness's willingness to do so. In the event a deponent or witness
4 being shown Confidential Material refuses to sign the certification, the deponent or witness shall
5 not be permitted to retain, reproduce, or copy all or any part of the Confidential Material. Pages of
6 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
7 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
8 under this agreement;

9 (h) the author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information.

11 (i) court reporters who take and transcribe testimony for use in this lawsuit;

12 (j) persons or entities to whom a party has a contractual, legal, or regulatory
13 obligation to provide Confidential Material, including insurers, reinsurers, reinsurance
14 intermediaries, retrocessionaries, regulators, retrocessionary accountants, and auditors of any
15 Party;

16 (k) any person agreed to in writing by all parties or allowed by the Court.

17 (l) Counsel for each party to this lawsuit shall be responsible for maintaining
18 copies of acknowledgements signed by those people to whom that party or his or her agents,
19 employees, consultants, or counsel make available Confidential Material.

20 4.3 Filing Confidential Material.

21 (a) Documents containing Confidential Material of any party shall not be filed
22 with the Court unless necessary for purposes of trial or substantive motions, including without
23 limitation, motions for preliminary injunction or summary judgment, discovery related motions,
24 or other Court matters.

25 (b) Before filing confidential material or discussing or referencing such
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1 material in court filings, the filing party shall confer with the designating party, in accordance with
2 Local Civil Rule 5(g)(3)(A), to determine whether the designating party will remove the
3 confidential designation, whether the document can be redacted, or whether a motion to seal or
4 stipulation and proposed order is warranted. During the meet and confer process, the designating
5 party must identify the basis for sealing the specific confidential information at issue, and the filing
6 party shall include this basis in its motion to seal, along with any objection to sealing the
7 information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the
8 standards that will be applied when a party seeks permission from the court to file material under
9 seal. A party who seeks to maintain the confidentiality of its information must satisfy the
10 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal.
11 Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with
12 the strong presumption of public access to the Court's files.

13 (c) The Clerk of the Court is directed to maintain under seal all documents and
14 transcripts of deposition testimony filed with this Court in this litigation by any party which are,
15 in whole or in part, designated as Confidential Material, including all pleadings, deposition
16 transcripts, exhibits, discovery responses, or memoranda purporting to reproduce or paraphrase
17 such information, PROVIDED that such documents are ordered sealed by the Court or are the
18 subject of a pending motion to seal. The party filing such material shall designate to the Clerk that
19 all or a designated portion thereof is subject to this Order and is to be kept under seal. A complete,
20 unredacted set of documents filed under seal shall be provided by the filing party to opposing
21 counsel the same day the documents are filed, to the extent counsel is otherwise entitled to review
22 the redacted portions.

23 5. DESIGNATING PROTECTED MATERIAL

24 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
25 or non-party that designates information or items for protection under this agreement must take
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1 care to limit any such designation to specific material that qualifies under the appropriate
2 standards. The designating party must designate for protection only those parts of material,
3 documents, items, or oral or written communications that qualify, so that other portions of the
4 material, documents, items, or communications for which protection is not warranted are not swept
5 unjustifiably within the ambit of this agreement.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
7 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
8 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
9 and burdens on other parties) expose the designating party to sanctions.

10 If it comes to a designating party's attention that information or items that it designated for
11 protection do not qualify for protection, the designating party must promptly notify all other parties
12 that it is withdrawing the mistaken designation.
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14 5.2 Manner and Timing of Designations. Except as otherwise provided in this
15 agreement (see, *e.g.*, second paragraph of section 5.2(b) below), or as otherwise stipulated or
16 ordered, disclosure or discovery material that qualifies for protection under this agreement must
17 be clearly so designated before or when the material is disclosed or produced.

18 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
19 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
20 the designating party must affix the word "CONFIDENTIAL" to each page that contains
21 confidential material. If only a portion or portions of the material on a page qualifies for protection,
22 the producing party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate
23 markings in the margins).

24 (b) Interrogatories or requests for production or admission: the parties must
25 designate portions as Confidential Material by means of a statement at the conclusion of such
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1 responses specifying the responses or parts thereof that are designated as Confidential Material.
2 The Legend “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” shall be placed,
3 stamped, or otherwise affixed on each page of any set of responses to interrogatories or requests
4 for production or admission that contain Confidential Material.

5 (c) Testimony given in deposition or in other pretrial proceedings: the parties
6 and any participating non-parties must identify on the record, during the deposition or other pretrial
7 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
8 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
9 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
10 exhibits thereto, as confidential. The party designating portions of the transcript as confidential
11 must direct the court reporter to mark such portions as “CONFIDENTIAL – SUBJECT TO
12 PROTECTIVE ORDER.” If no designation is made by a statement to such effect on the record
13 during the course of the deposition or within thirty (30) days after counsel’s receipt of the
14 deposition transcript, the transcript shall be considered not to contain any Confidential Material.
15 Portions of the transcript and exhibits designated as containing Confidential Material may only be
16 disclosed in accordance with the terms of this Protective Order. If a party or non-party desires to
17 protect confidential information at trial, the issue should be addressed during the pre-trial
18 conference.

19 (d) Other tangible items: the producing party must affix in a prominent place
20 on the exterior of the container or containers in which the information or item is stored the word
21 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
22 the producing party, to the extent practicable, shall identify the protected portion(s).

23 (e) In the case of verbal communications, the designating party shall designate
24 the communication as containing Confidential Material by advising the recipient orally at the time
25 of the disclosure and in writing within ten (10) days after the disclosure.

1 (f) This Agreement shall apply with equal force to all copies, notes, summaries,
2 or other compilations and recitations of Confidential Material.

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
4 designate qualified information or items does not, standing alone, waive the designating party's
5 right to secure protection under this agreement for such material. Upon timely correction of a
6 designation, the receiving party must make reasonable efforts to ensure that the material is treated
7 in accordance with the provisions of this agreement.

8 (a) The designating party may subsequently designate those documents or other
9 materials as Confidential Material by notifying all parties in writing in a manner which reasonably
10 identifies the documents or other material at issue within thirty (30) days after discovery of its
11 failure to designate. The designating party shall also at its own expense cause all other parties to
12 receive new copies of any such documents or other materials bearing the confidential designation
13 in accordance with the method of designation specified in Paragraph 5.2. The receiving parties
14 shall then destroy the documents or other materials originally produced and replace them with new
15 copies bearing the confidential designation.

16 (b) After service of a notice in accordance with this section claiming
17 Confidential Material was produced, no motion contesting the protected status of the document or
18 opposing a motion requesting confirmation of the protected status of the document shall rely on
19 an allegation that any protection as to the document was waived by its production in this litigation,
20 provided that: (1) the disclosure was inadvertent, (2) the holder of the designating party took
21 reasonable steps to prevent disclosure, and (3) the holder took reasonable steps to rectify the error.

22 (c) To the extent any party who received such materials has disclosed the
23 materials to third parties before it received the designating party's written notice of inadvertent
24 disclosure, such party shall advise all third-party recipients that the materials contain Confidential
25 Material and are subject to a protective order and shall use its best efforts to retrieve such materials.

1 No disclosure of such information or materials shall be made once a party designates them as
2 containing Confidential Material, absent a Court order, and the terms of this Agreement shall
3 govern all such information or materials designated as Confidential Material.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
6 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
7 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
8 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
9 challenge a confidentiality designation by electing not to mount a challenge promptly after the
10 original designation is disclosed.

11 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
12 regarding confidential designations without court involvement. Any motion regarding confidential
13 designations or for a protective order must include a certification, in the motion or in a declaration
14 or affidavit, that the movant has engaged in a good faith meet and confer conference with other
15 affected parties in an effort to resolve the dispute without court action. The certification must list
16 the date, manner, and participants to the conference. A good faith effort to confer requires a face-
17 to-face meeting or a telephone conference.

18 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
19 intervention, the designating party may file and serve a motion to retain confidentiality under Local
20 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
21 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
22 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
23 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
24 the material in question as confidential until the court rules on the challenge.

1 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
2 LITIGATION

3 If a party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
5 must:

6 (a) promptly notify the designating party in writing and include a copy of the
7 subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
9 issue in the other litigation that some or all of the material covered by the subpoena or order is
10 subject to this agreement. Such notification shall include a copy of this agreement; and

11 (c) cooperate with respect to all reasonable procedures sought to be pursued by
12 the designating party whose confidential material may be affected.

13 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

14 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
15 material to any person or in any circumstance not authorized under this agreement, the receiving
16 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
17 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
18 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
19 and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be
20 Bound” that is attached hereto as Exhibit A.

21 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 When a producing party gives notice to receiving parties that certain inadvertently
24 produced material is subject to a claim of privilege or other protection, the obligations of the
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1 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
2 is not intended to modify whatever procedure may be established in an e-discovery order or
3 agreement that provides for production without prior privilege review. The parties agree to the
4 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.
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6 10. NON TERMINATION AND RETURN OF DOCUMENTS

7 Within 60 days after the termination of this action, including all appeals, each receiving
8 party must return all confidential material to the producing party, including all copies, extracts and
9 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

10 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
11 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
12 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
13 product, even if such materials contain confidential material.
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15 The confidentiality obligations imposed by this agreement shall remain in effect until a
16 designating party agrees otherwise in writing or a court orders otherwise.

17 11. GENERAL PROVISIONS

18 Nothing in this Agreement shall be construed as creating an obligation to disclose
19 information or documents protected by the attorney-client privilege, attorney work product
20 doctrine, or other applicable privileges or protections. No Party shall be deemed to have waived
21 any objection to the admissibility at trial of any information or documents produced pursuant to
22 this Agreement. If any Confidential Material is used in any discovery or court proceeding before
23 trial, it shall not lose its confidential status solely through such use.
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1 Each party represents and warrants that the individual signing this Agreement on its behalf
2 is fully authorized to sign on behalf of and bind it.

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4 12. MODIFICATIONS

5 Nothing in this Order shall preclude any party from applying to the Court for relief from this
6 Order, or for additional or different protective provisions as the Court may deem appropriate.
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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: October 28, 2024

s/ Joseph Scuderi

3 Attorneys for Plaintiff

5 DATED: October 28, 2024

s/ Jennifer E. Aragon

7 Attorneys for Defendant

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents, electronically stored information (ESI) or information, whether inadvertent or
4 otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or
5 state proceeding, constitute a waiver by the producing party of any privilege applicable to those
6 documents, including the attorney-client privilege, attorney work-product protection, or any other
7 privilege or protection recognized by law. This Order shall be interpreted to provide the maximum
8 protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply.
9 Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review
10 of documents, ESI or information (including metadata) for relevance, responsiveness and/or
11 segregation of privileged and/or protected information before production. Information produced
12 in discovery that is protected as privileged or work product shall be immediately returned to the
13 producing party.
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19 DATED: October 30, 2024

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22 Jamal N. Whitehead
23 United States District Court Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of
perjury that I have read in its entirety and understand the Stipulated Protective Order that was
issued by the United States District Court for the Western District of Washington on [date] in the
case of _____ **[insert formal name of the case and the number and initials
assigned to it by the court]**. I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will
not disclose in any manner any information or item that is subject to this Stipulated Protective
Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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